

INTRODUCTION.

THE COURT.

The history of the Provincial Court, established soon after the founding of the Province, down to its abolition in 1805, although from 1777 to 1805 it was known as the General Court, has been told in the introductions to former volumes of the Court Series of the *Archives* (volumes XLIX, LI, LIII), so will not be repeated here. It also seems almost needless to repeat that in the period covered by this volume, the personnel of the Provincial Court was identical with that of the Governor's Council, which, it may be added, also sat as the Upper House of the Assembly, and functioned there not only as a legislative body but also as a court of appeals. The reader is reminded that these same men also sat as a Court of Chancery, as an Admiralty Court, and as a Court of Orphans during the period covered by this volume, but generally without a specific statement in the record as to the capacity in which they were sitting.

Before the year 1669, however, when separate record books for the Provincial Court and the Court of Chancery began to be kept, we find an attempt on the part of the court clerk in recording cases to differentiate between the several functions of the court, as by an incidental notation somewhere in the record of a case, that it is being "heard in Chancery" or "as depending in the high court of Chancery", or by a reference to the complainant as "suing in Chancery". Chancery cases are, however, usually recorded indiscriminately with law cases. An exception is to be noted when a special session of the court was held at Mattapany on April 15, 1667, which is described in the record as a meeting of "a high Court of Chancery at Mattapenny" (p. 183). Until the formal separation of the law and equity courts, in name as well as in fact, was effected in 1669, the same clerk served both as clerk and as register respectively. Beginning with 1669, however we have two different series of records kept for the Provincial Court and the Court of Chancery. As in the preceding volumes of Provincial Court records much of the space in this volume is taken up with records relating to land, deeds, assignments of patents, leases, powers of attorney for the sale of land, and the like, and it was not until 1679 that the clerk provided a separate series of libers for recording land papers.

Beginning with the December, 1669, session of the Provincial Court, the clerk, John Blomfield, has segregated the criminal cases and recorded them together at the end of the liber. At these sessions of the Provincial Court when criminal cases were heard, these hearings are described in the court minutes as being held "to keepe the Peace in the Province of Maryland . . . [and] to hear divers, felonies, transgressions, and other misdemeanours in the said Province perpetrated and committed" (p. 596). Before the December, 1669, session, criminal cases and civil suits had been mingled indiscriminately in the court minutes.